

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LUCY AMADOR, et. al, on behalf of themselves
and all others similarly situated,

NOTICE OF MOTION

Plaintiffs

-against-

SUPERINTENDENTS OF THE DEPARTMENT OF
CORRECTIONAL SERVICES ("DOCS")
ANGINELL ANDREWS, et. al

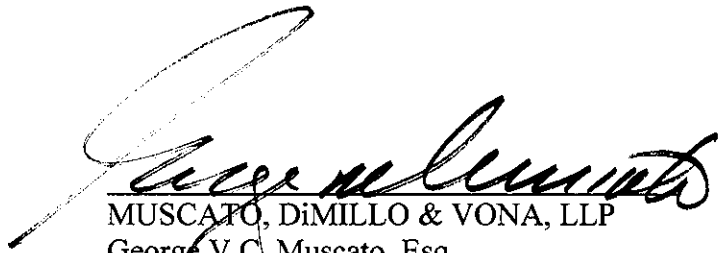
06:10 -cv-06702 (DGL) (JWF)

Defendants

PLEASE TAKE NOTICE that, upon the Declaration and Memorandum of Law of George V.C. Muscato, dated the 14th day of February, 2012, as well as all the pleadings and papers previously submitted to the Court in this action, the undersigned hereby moves this Court for summary judgment pursuant to Federal Rules of Civil Procedure 56, granting the Defendant ROBERT SMITH summary judgment on the issue of liability against Plaintiff LUCY AMADOR (n/k/a Lucy Tasama) based upon the grounds that no triable issue of fact exists in relation to liability of Defendant SMITH under 42 USC §1983 for the allegations of Plaintiff AMADOR.

Please take further notice that Defendant SMITH intends to submit reply papers upon its receipt of answering papers submitted by Plaintiff AMADOR.

Dated: February 14, 2012



MUSCATO, DiMILLO & VONA, LLP
George V.C. Muscato, Esq.
Attorney for Defendant Robert Smith
107 East Avenue
Lockport, NY 14094
(716) 434-9177

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LUCY AMADOR, et. al, on behalf of themselves
and all others similarly situated,

Plaintiff

-against-

***DECLARATION IN SUPPORT
OF MOTION FOR SUMMARY
JUDGMENT***

SUPERINTENDENTS OF THE DEPARTMENT OF
CORRECTIONAL SERVICES ("DOCS")
ANGINELL ANDREWS, et. al

Defendants

06:10 –cv-06702 (DGL) (JWF)


George V.C. Muscato, Esq., hereby submits the following Declaration in support of Defendant Robert Smith's Motion for Summary Judgment pursuant to Federal Rules of Civil Procedure 56.

1. I am attorney licensed to practice law in the State of New York and in the Western District of New York Federal Court.
2. I am retained by Defendant Robert Smith in the above-captioned matter, and as such I am fully familiar with the facts and circumstances relevant to this case. I have reviewed all of the pleadings filed herein, along with additional declarations, affidavits, depositions, exhibits, and responses to discovery demands.
3. All information contained herein is made upon personal knowledge, unless stated upon information and belief.
4. Robert Smith was deposed on December 15, 2008. A true and accurate copy of his testimony is attached as Exhibit A.
5. LucyAmador n/k/a Tasama was deposed on January 26 – 27, 2009. A true and accurate copy of her deposition testimony is attached as Exhibit B.

6. Pursuant to an Order of this Court, signed by Judge Feldman on February 9, 2012, the videotaped deposition testimony of Lucy Amador will be offered at trial in lieu of live testimony. A copy of said Order is attached as Exhibit C.
7. Also pursuant to said Order, Plaintiff AMADOR's claim against Defendant ROBERT SMITH will be tried separate and apart from all other defendants named in this action.

I declare under perjury that the foregoing is true and correct.

Dated: February 14, 2012



MUSCATO, DiMILLO & VONA, LLP
George V.C. Muscato, Esq.
Attorney for Defendant Robert Smith
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Lockport, NY 14094
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